

**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

<b>IN THE MATTER OF THE APPLICATION OF</b>	)	
<b>IDAHO POWER COMPANY FOR A</b>	)	<b>CASE NO. IPC-E-03-12</b>
<b>CERTIFICATE OF PUBLIC CONVENIENCE</b>	)	
<b>AND NECESSITY FOR THE RATEBASING OF</b>	)	
<b>THE BENNETT MOUNTAIN POWER PLANT.</b>	)	<b>ORDER NO. 29422</b>
	)	

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On January 2, 2004, the Commission issued Order No. 29410 approving Idaho Power Company's Application for a Certificate of Public Convenience and Necessity to construct the Bennett Mountain Power Plant. In response to the Company's request to rate base the capital costs of the plant, the Commission found that "in the ordinary course of events, Idaho Power may anticipate ratebasing \$44.6 million...." Order No. 29410 at 11. The Commission also found that "it is reasonable to allow the Company to recover its fuel costs through the PCA mechanism." *Id.* at 13.

On January 12, 2004, Idaho Power filed a Petition for Clarification or, in the alternative, Reconsideration concerning Order No. 29410. In particular, Idaho Power seeks clarification regarding the Commission's ruling that the Company "may" recover its reasonable and prudent costs. No cross-petitions or other Petitions for Reconsideration were filed. As set out below, we clarify Order No. 29410.

**THE COMPANY'S PETITION**

In its Petition, Idaho Power seeks clarification of two ordering paragraphs. More specifically, the Company seeks clarification of the Commission's use of the word "may" in the following ordering paragraphs.

IT IS FURTHER ORDERED that in the ordinary course of events Idaho Power may recover the reasonable and prudent costs of the Bennett Mountain project. Capital costs in excess of \$44.6 million will be reviewed in a subsequent case after the plant has been constructed. Capital costs (excluding transmission interconnection and legally required equipment changes) in excess of the Commitment Estimate cap of \$54.0 million will not be eligible for inclusion in the Company's rate base.

IT IS FURTHER ORDERED that the Company's reasonable and prudent fuel costs for the Bennett Mountain plant may be recovered through the PCA

mechanism. Idaho Power's risk management policies and fuel procurement strategies will be evaluated when PCA costs are reviewed.

Petition at 2, quoting Order No. 29410 at 16 (emphasis added).

Idaho Power explains that it seeks clarification based upon its experiences arising from the Irrigation Buy-back appeal. Supreme Court Docket No. 29016. The Company is concerned that use of the word "may" could be construed as allowing a subsequent challenge to the ratebasing of capital costs once Bennett Mountain is used and useful. Although "Idaho Power has no desire to re-litigate" the pending appeal, it would be remiss if it did not obtain "a clear understanding of the Commission's intent expressed in Order No. 29410 today rather than two years from now" when the Company seeks recovery of its costs. Petition at 3.

Idaho Power suggests the Commission could clarify its Order No. 29410 in two ways. First, the Commission could confirm that the word "may" has the same construction as the Commission's language in Order No. 25021 where it approved the upgrade of the Twin Falls hydroelectric plant. Order No. 25021 states that "in the ordinary course of events, the Company may expect its investment in the Twin Falls project to be recognized in its revenue requirement, barring unforeseen circumstances...." On appeal, the Idaho Supreme Court confirmed that the Commission's above-quoted language recognizes that barring unforeseen circumstances, Idaho Power would be allowed to recover its prudently incurred investment in the Twin Falls upgrade. *Rosebud Enterprises v. Idaho Public Utilities Commission*, 128 Idaho 633, 635, 1971 P.2d 790, 792 (1996).

In the alternative, Idaho Power suggests that the Commission could clarify the two paragraphs in Order No. 29410 by replacing the word "may" with the phrases "can expect to" and "can expect its," respectively. Petition at 8. Idaho Power insisted that a clarification by either method would be sufficient. *Id.*

## DISCUSSION

Having reviewed our prior Order No. 29410 and the Company's Petition, we clarify our prior Order. As set out above, Idaho Power has focused on the two "ordering" paragraphs at the end of the Order. As the Company observed in its Petition, our Supreme Court has recognized that similar language in the Twin Falls Order was construed to mean that Idaho Power can expect to recover its prudently incurred investment in the Twin Falls plant barring unforeseen circumstances. *Rosebud*, 128 Idaho at 635, 917 P.2d at 792.

In the body of our Order No. 29410, the Commission made specific findings regarding the Company's ability to recover its costs. In particular, the Commission found that in the ordinary course of events Idaho Power can anticipate ratebasing \$44.60 million. Reasonable and prudent costs incurred above that figure up to the Commitment Estimate of \$54.0 million will be reviewed in a subsequent proceeding. Order No. 29410 at 11-12, 16. Turning to the Commission's findings regarding fuel costs, our Order states that "we find it is reasonable to allow the Company to recover its fuel costs through the PCA mechanism. In Order No. 28799 we allowed recovery of fuel costs for the Danskin Plant.... We find that similar treatment here is reasonable." Order No. 29410 at 13.

In summary, we clarify that in the ordinary course of events, Idaho Power can expect to ratebase prudent Bennett Mountain capital costs and recover prudent fuel costs in the PCA mechanism.

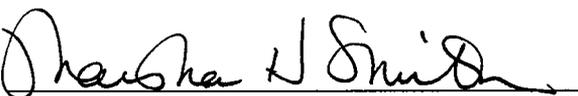
### **ORDER**

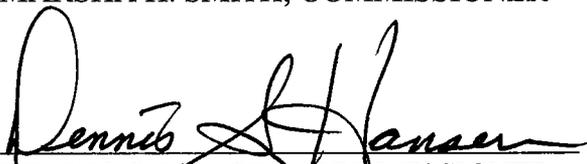
IT IS HEREBY ORDERED that Idaho Power Company's Petition for Clarification is granted. Having clarified our Order No. 29410, there is no need for the Commission to address the reconsideration alternative.

THIS IS A FINAL ORDER. Any party aggrieved by this Order or other final or interlocutory Orders previously issued in this Case No. IPC-E-03-12 may appeal to the Supreme Court of Idaho pursuant to the Public Utilities Law and the Idaho Appellate Rules. See *Idaho Code* § 61-627.

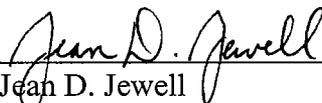
DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 23<sup>rd</sup>  
day of January 2004.

  
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PAUL KJELLANDER, PRESIDENT

  
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MARSHA H. SMITH, COMMISSIONER

  
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DENNIS S. HANSEN, COMMISSIONER

ATTEST:

  
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Jean D. Jewell  
Commission Secretary

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